### **Table of Contents**

§ 754.1 INTRODUCTION 1
§ 754.2 CRUDE OIL
§ 754.3 PETROLEUM PRODUCTS NOT INCLUDING CRUDE OIL9
§ 754.4 UNPROCESSED WESTERN RED CEDAR9
§ 754.5 HORSES FOR EXPORT BY SEA11
§ 754.6 REGISTRATION OF U.S. AGRICULTURAL COMMODITIES FOR EXEMPTION FROM SHORT SUPPLY LIMITATIONS ON EXPORT12
§ 754.7 PETITIONS FOR THE IMPOSITION OF MONITORING OR CONTROLS ON RECYCLABLE METALLIC MATERIALS; PUBLIC HEARINGS
SUPPLEMENT NO. 1 TO PART 754 - CRUDE PETROLEUM AND PETROLEUM PRODUCTS2
SUPPLEMENT NO. 2 TO PART 754 -UNPROCESSED WESTERN RED CEDAR1
SUPPLEMENT NO. 3 TO PART 754 - STATUTORY PROVISIONS DEALING WITH EXPORTS OF CRUDE OIL

#### § 754.1 INTRODUCTION

#### (a) Scope

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C. This part implements the provisions of section 7, "Short

Supply Controls", of the Export Administration Act (EAA) and similar provisions in other laws that are not based on national security and foreign policy grounds.

#### (b) Contents

Specifically, this part deals with the following:

- (1) It sets forth the license requirements and licensing policies for commodities that contain the symbol "SS" in the "Reason for Control" part of "License Requirements" section of the applicable Export Control Classification Number (ECCN) identified on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). In appropriate cases, it also provides for License Exceptions from the short supply licensing requirements described in this part. The license requirements and policies that are described in this part cover the following:
- (i) Crude oil described by ECCN 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil listed in Supplement No. 1 to this part). For specific licensing requirements for these items, see §754.2 of this part.
- (ii) Petroleum products other than crude oil listed in Supplement No. 1 to this part, that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR-produced or derived commodities described by the following ECCNs. For specific licensing requirements for these items, see §754.3 of this part.
  - (A) ECCN 1C980 (Inorganic chemicals);
- (B) ECCN 1C982 (Other petroleum products);
- (C) ECCN 1C983 (Natural gas liquids and other natural gas derivatives); and

- (D) ECCN 1C984 (Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy).
- (iii) Unprocessed western red cedar described by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane). For specific licensing requirements for these items, see §754.4 of this part.
- (iv) Horses exported by sea for slaughter covered by ECCN 0A980 (Horses for export by sea). For specific licensing requirements, see §754.5 of this part.
- (2) It incorporates statutory provisions for the registration of U.S. agricultural commodities for exemption from short supply limitations on export (see §754.6 of this part); and
- (3) It incorporates statutory provisions for the filing and review of petitions seeking the imposition of monitoring or controls on recyclable metallic materials and procedures for related public hearings (see §754.7 of this part).

#### (c) Reexports

Reexports of items controlled by this part require a license only if such a requirement is specifically set forth in this part or is set forth on the license authorizing the export from the United States.

### (d) Additional requirements for embargoed destinations

For exports involving embargoed destinations, you must satisfy the requirements of this part and also of part 746 of the EAR (Embargoes and Other Special Controls).

### **§ 754.2 CRUDE OIL**

#### (a) License requirement

As indicated by the SS notation in the "License Requirements" section of ECCN 1C981 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required for the export of crude oil to all destinations, including Canada. paragraph (h) of this section for a License Exception permitting the export of certain oil from the Strategic Petroleum Reserves, paragraph (i) of this section for a License Exception for certain shipments of samples, and paragraph (j) of this section for a License Exception for exports of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaskan Pipeline Authorization Act (43 U.S.C. 1652). "Crude oil" is defined as a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and which has not been processed through a crude oil distillation tower. Included are reconstituted crude petroleum, and lease condensate and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil, residual oil, and other finished and unfinished oils are excluded.

#### (b) License policy

- (1) BIS will approve applications to export crude oil for the following kinds of transactions if BIS determines that the export is consistent with the specific requirements pertinent to that export:
- (i) Exports from Alaska's Cook Inlet (see paragraph (d) of this section);
- (ii) Exports to Canada for consumption or use therein (see paragraph (e) of this section);
- (iii) Exports in connection with refining or exchange of strategic petroleum reserve oil (see paragraph (f) of this section);

- (iv) Exports of heavy California crude oil up to an average volume not to exceed 25 MB/D (see paragraph (g) of this section);
- (v) Exports that are consistent with international agreements as described in the statutes listed in paragraph (c) of this section;
- (vi) Exports that are consistent with findings made by the President under an applicable statute, including the statutes described in paragraph (c) of this section; and
- (vii) Exports of foreign origin crude oil where, based on written documentation satisfactory to BIS, the exporter can demonstrate that the oil is not of U.S. origin and has not been commingled with oil of U.S. origin. See paragraph (h) of this section for the provisions of License Exception SPR permitting exports of certain crude oil from the Strategic Petroleum Reserve.
- (2) BIS will review other applications to export crude oil on a case-by-case basis and, except as provided in paragraph (c) of this section, generally will approve such applications if BIS determines that the proposed export is consistent with the national interest and the purposes of the Energy Policy and Conservation Act (EPCA). Although BIS will consider all applications for approval, generally, the following kinds of transactions will be among those that BIS will determine to be in the national interest and consistent with the purposes of EPCA.
  - (i) The export is part of an overall transaction:
- (A) That will result *directly* in the importation into the United States of an equal or greater quantity and an equal or better quality of crude oil or of a quantity and quality of petroleum products listed in Supplement No. 1 to this part that is not less than the quantity and quality of commodities that would be derived from the refining of the crude oil for which an export license is sought;

- (B) That will take place only under contracts that may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened; and
- (C) In which the applicant can demonstrate that, for compelling economic or technological reasons that are beyond the control of the applicant, the crude oil cannot reasonably be marketed in the United States.
- (ii) Exports involving temporary exports or exchanges that are consistent with the exceptions from the restrictions of the statutes listed in paragraph (c) of this section.

#### (c) Additional statutory controls

- (1) The following statutes provide controls on the export of domestically produced crude oil based on its place of origin or mode of transport. If such other statutory controls apply, an export may only be approved if the President makes the findings required by the applicable law.
- (i) Section 201 of Public Law 104-58, entitled "Exports of Alaskan North Slope Oil", provides for exports of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) ("TAPS crude oil"). The President made a determination on April 28, 1996.
- (ii) The Mineral Leasing Act of 1920 restricts exports of domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 28(u) of that Act (30 U.S.C. 185(u)) ("MLA").
- (iii) The Outer Continental Shelf Lands Act restricts exports of crude oil produced from the outer Continental Shelf (29 U.S.C. 1354) ("OCSLA").

(iv) The Naval Petroleum Reserves Production Act restricts the export of crude oil produced from the naval petroleum reserves (10 U.S.C. 7430) ("NPRPA").

(2) Supplement No. 3 to this part describes the relevant statutory provisions. In cases where a particular statute applies, a Presidential finding is necessary before the export can be authorized. You should note that in certain cases it is possible that more than one statute could apply to a particular export of crude oil.

#### (d) Exports from Alaska's Cook Inlet

The licensing policy is to approve applications for exports of crude oil that was derived from the state-owned submerged lands of Alaska's Cook Inlet and has not been, or will not be, transported by a pipeline over a federal right-of-way subject to the MLA or the Trans-Alaska Pipeline Authorization Act.<sup>1</sup>

### (e) Exports to Canada for consumption or use therein

- (1) Except for TAPS crude oil, the licensing policy is to approve applications for exports of crude oil to Canada for consumption or use therein.
- (2) The licensing policy for TAPS crude oil is to approve applications for an average of no more than 50,000 barrels of oil per day for consumption or use in Canada, subject to the following procedures and conditions:
- (i) Any ocean transportation of the commodity will be made by vessels documented for United States coastwise trade under 46 U.S.C. 12106. Only barge voyages between the State

of Washington and Vancouver, British Columbia, and comparable barge movements across waters between the U.S. and Canada may be excluded from this requirement. The Bureau of Industry and Security will determine, in consultation with the Maritime Administration, whether such transportation is "ocean" transportation; and

- (ii) Authorization to export TAPS crude oil will be granted on a quarterly basis. Applications will be accepted by BIS no earlier than two months prior to the beginning of the calendar quarter in question, but must be received no later than the 25th day of the second month preceding the calendar quarter. For example, for the calendar quarter beginning April 1 and ending June 30, applications will be accepted beginning February 1, but must be received no later than February 25.
- (iii) The quantity stated on each application must be the total number of barrels for the quarter, not a per-day rate. This quantity must not exceed 50,000 barrels times the number of calendar days in the quarter.
- (iv) Each application must include support documents providing evidence that the applicant has either:
- (A) Title to the quantity of barrels stated in the application; or
- (B) A contract to purchase the quantity of barrels stated in the application.
- (v) The quantity of barrels authorized on each license for export during the calendar quarter will be determined by the BIS as a prorated amount based on:
- (A) The quantity requested on each license application; and
- (B) The total number of barrels that may be exported by all license holders during the quarter

<sup>&</sup>lt;sup>1</sup> On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from State waters in Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

(50,000 barrels per day multiplied by the number of calendar days during the quarter).

- (vi) Applicants may combine their licensed quantities for as many as four consecutive calendar quarters into one or more shipments, provided that the validity period of none of the affected licenses has expired.
- (vii) BIS will carry forward any portion of the 50,000 barrels per day quota that has not been allocated during a calendar quarter, except that no un-allocated portions will be carried over to a new calendar year. The un-allocated volume for a calendar quarter will be added, until expended, to the quotas available for each quarter through the end of the calendar year.

#### (f) Refining or exchange of Strategic Petroleum Reserve Oil

- (1) Exports of crude oil withdrawn from the Strategic Petroleum Reserve (SPR) will be approved if BIS, in consultation with the Department of Energy, determines that such exports will directly result in the importation into the United States of refined petroleum products that are needed in the United States and that otherwise would not be available for importation without the export of the crude oil from the SPR.
- (2) Licenses may be granted to export, for refining or exchange outside of the United States, SPR crude oil that will be sold and delivered, pursuant to a drawdown and distribution of the SPR, in connection with an arrangement for importing refined petroleum products into the United States.
- (3) BIS will approve license applications subject to the following conditions:
- (i) You must provide BIS evidence of the following:
- (A) A title to the quantity of barrels of SPR crude stated in the application; or

- (B) A contract to purchase, for importation, into the United States the quantity of barrels of SPR crude stated in the application.
- (ii) The following documentation must be submitted to BIS no later than fourteen days following the date that the refined petroleum products are imported in the U.S. in exchange for the export of SPR crude:
- (A) Evidence that the exporter of the SPR crude has title to or a contract to purchase refined petroleum product;
- (B) A copy of the shipping manifest that identifies the refined petroleum products; and
- (C) A copy of the entry documentation required by the U.S. Customs Service that show the refined petroleum products were imported into the United States, or a copy of the delivery receipt when the refined petroleum products are for delivery to the U.S. military outside of the United States.
- (4) You must complete both the export of the SPR crude and the import of the refined petroleum products no later than 30 days following the issuance of the export license, except in the case of delivery to the U.S. military outside of the United States, in which case the delivery of the refined petroleum products must be completed no later than the end of the term of the contract with the Department of Defense.

#### (g) Exports of certain California crude oil

The export of California heavy crude oil having a gravity of 20.0 degrees API or lower, at an average volume not to exceed 25 MB/D, will be authorized as follows.

(1) Applicants must submit their applications in accordance with §§ 748.1, 748.4 and 748.6 of the EAR.

- (2) The quantity stated on each application must be the total number of barrels proposed to be exported under the license -- not a per-day rate. This quantity must not exceed 25 percent of the annual authorized export quota. Potential applicants may inquire of BIS as to the amount of the annual authorized export quota available.
- (3) Each application shall be accompanied by a certification by the applicant that the California heavy crude oil:
  - (i) Has a gravity of 20.0 degrees API or lower;
- (ii) Was produced within the state of California, including its submerged state lands;
- (iii) Was *not* produced or derived from a U.S. Naval Petroleum Reserve; *and*
- (iv) Was *not* produced from submerged lands of the U.S. Outer Continental Shelf.
- (4) Each license application must be based on an order, and be accompanied by documentary evidence of such an order (e.g., a letter of intent).
- (5) BIS will adhere to the following procedures for licensing exports of California heavy crude oil:
- (i) BIS will issue licenses for approved applications in the order in which the applications are received, with the total quantity authorized for any one license not to exceed 25 percent of the annual authorized volume of California heavy crude oil.
- (ii) BIS will approve only one application per month for each company and its affiliates.
- (iii) BIS will consider the following factors (among others) when determining what action should be taken on individual license applications:

(A) The number of licenses to export California heavy crude oil that have been issued to the applicant or its affiliates during the then-current calendar year;

- (B) The number of applications pending in BIS that have been submitted by applicants who have not previously been issued licenses under this section to export California heavy crude oil during the then-current calendar year; and
- (C) The percentage of the total amount of California heavy crude oil authorized under other export licenses previously issued to the applicant pursuant to this section that has actually been exported by the applicant.
- (iv) BIS will approve applications contingent upon the licensee providing documentation meeting the requirements of both paragraphs(g)(5)(iv)(A) and (B) of this section prior to any export under the license:
- (A) Documentation showing that the applicant has or will acquire title to the quantity of barrels stated in the application. Such documentation shall be either:
- (1) An accepted contract or bill of sale for the quantity of barrels stated in the application; or
- (2) A contract to purchase the quantity of barrels stated in the application, which may be contingent upon issuance of an export license to the applicant.
- (B) Documentation showing that the applicant has a contract to export the quantity of barrels stated in the application. The contract may be contingent upon issuance of the export license to the applicant.
- (v) BIS will carry forward any portion of the 25 MB/D quota that has not been licensed, *except that* no unallocated portions will be carried forward more than 90 days into a new calendar year. Applications to export against any

carry-forward must be filed with BIS by January 15 of the carry-forward year.

- (vi) BIS will return to the available authorized export quota any portion of the 25 MB/D per day quota that has been licensed, but not shipped, during the 90-day validity period of the license.
- (vii) BIS will *not* carry over to the next calendar year pending applications from the previous year.

#### **(6)** License holders:

- (i) Have 90 calendar days from the date the license was issued to export the quantity of California heavy crude oil authorized on the license. Within 30 days of any export under the license, the exporter must provide BIS with a certified statement confirming the date and quantity of California heavy crude oil exported.
- (ii) Must submit to BIS, prior to any export under the license, the documentation required by paragraph (g)(5)(iv) of this section.
- (iii) May combine authorized quantities into one or more shipments, *provided that* the validity period of none of the affected licenses has expired.
- (iv) Are prohibited from transferring the license to another party without prior written authorization from BIS.
- (7) BIS will allow a 10 percent tolerance on the unshipped balance based upon the volume of barrels it has authorized. BIS will allow a 25 percent shipping tolerance on the total dollar value of the license. See §750.11 of the EAR for an explanation of shipping tolerances.

# (h) License Exception for certain shipments from the Strategic Petroleum Reserves (SPR)

Subject to the requirements set forth in this paragraph, License Exception SPR may be used

to export without a license foreign origin crude oil imported and owned by a foreign government or its representative which is imported for storage in, and stored in, the United States Strategic Petroleum Reserves pursuant to an appropriate agreement with the U.S. Government or an agency thereof. If such foreign origin oil is commingled with other oil in the SPR, such export is authorized under License Exception SPR only if the crude oil being exported is of the same quantity and of comparable quality as the foreign origin crude oil that was imported for storage in the SPR and the Department of Energy certifies this fact to BIS.

- (1) The requirements and restrictions described in §§740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception SPR.
- (2) A person exporting crude oil pursuant to this License Exception must enter on any required Electronic Export Information (EEI) filing to the Automated Export System (AES) the correct license code that corresponds to "SS-SPR."

### (i) License Exception for certain sample shipments

Subject to the requirements set forth in this paragraph, License Exception SS-SAMPLE may be used to export crude oil for analytic and testing purposes.

- (1) An exporter may ship up to 10 barrels of crude oil to any one end-user annually, up to an annual cumulative limit of 100 barrels per exporter.
- (2) The requirements and restrictions described in §§740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception SPR.
- (3) A person exporting crude oil pursuant to this License Exception must enter on any required Electronic Export Information (EEI) filing to the

Automated Export System (AES) the correct license code that corresponds to "SS-SAMPLE."

#### (j) License Exception for exports of TAPS Crude Oil

- (1) License Exception TAPS may be used to export oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (TAPS), provided the following conditions are met:
- (i) The TAPS oil is transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. app. 802));
- (ii) all tankers involved in the TAPS export trade use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. reaching that point, tankers in the TAPS oil export trade must remain outside of the 200 nautical mile Exclusive Economic Zone, as defined in 16 U.S.C. 1802(6). Tankers returning from foreign ports to Valdez, Alaska must abide by the same restrictions, in reverse, on their return route. This condition shall not be construed to limit any statutory, treaty or Common Law rights and duties imposed upon and enjoyed by tankers in the TAPS oil export trade, including, but not limited to, force majeure and maritime search and rescue rules; and
- (iii) the owner or operator of a tanker exporting TAPS oil shall:
- (A) adopt a mandatory program of deep water ballast exchange (i.e., at least 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel and crew. Records must be maintained in accordance with paragraph (j)(3) of this section.

- (B) be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine the tanker's location; and
- (C) maintain a Critical Area Inspection Plan for each tanker in the TAPS oil export trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15-91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks.

## (2) Recordkeeping requirements for deep water ballast exchange.

- (i) As required by paragraph (j)(1)(iii)(A) of this section, the master of each vessel carrying TAPS oil under the provisions of this section shall keep records that include the following information, and provide such information to the Captain of the Port (COTP), U.S. Coast Guard, upon request:
- (A) the vessel's name, port of registry, and official number or call sign;
  - (B) the name of the vessel's owner(s);
  - (C) whether ballast water is being carried;
- (D) the original location and salinity, if known, of ballast water taken on, before an exchange;
- (E) the location, date, and time of any ballast water exchange; and
- (F) the signature of the master attesting to the accuracy of the information provided and certifying compliance with the requirements of this paragraph.
- (ii) the COTP or other appropriate federal agency representatives may take samples of ballast water to assess the compliance with, and

the effectiveness of, the requirements of paragraph (j)(3)(i) of this section.

## § 754.3 PETROLEUM PRODUCTS NOT INCLUDING CRUDE OIL

#### (a) License requirement

As indicated by the letters "SS" in the "Reason for Control" paragraph in the "License Requirements" section of ECCNs 1C980, 1C982, 1C983, and 1C984 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required to all destinations, including Canada, for the export of petroleum products, excluding crude oil, listed in Supplement No. 1 to this part, that were produced or derived from the Naval Petroleum Reserves (NPR) or became available for export as a result of an exchange of any NPR produced or derived commodities.

#### (b) License policy

- (1) Applications for the export of petroleum products listed in Supplement No. 1 to this part that were produced or derived from the Naval Petroleum Reserves, or that became available for export as a result of an exchange for a Naval Petroleum Reserves produced or derived commodity, other than crude oil, will be denied, *unless* the President makes a finding required by the Naval Petroleum Reserves Production Act (10 U.S.C. 7430).
- (2) Applications that involve temporary exports or exchanges excepted from that Act will be approved.

## § 754.4 UNPROCESSED WESTERN RED CEDAR

#### (a) License requirement

As indicated by the letters "SS" in the "Reason for Control" paragraph in the "License

Requirements" section of ECCN 1C988 on the CCL (Supplement No. 1 to part 774 of the EAR), a license is required to all destinations, including Canada, for the export of unprocessed western red cedar covered by ECCN 1C988 (Western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane). For a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed western red cedar products subject to the license requirements of this section, see Supplement No. 2 to part 754 of the EAR. See paragraph (c) of this section for license exceptions for timber harvested from public lands in the State of Alaska, private lands, or Indian lands, and see paragraph (d) of this section for relevant definitions.

#### (b) Licensing policy

- (1) BIS will generally deny applications for licenses to export unprocessed western red cedar harvested from Federal or State lands under harvest contracts entered into after September 30, 1979.
- (2) BIS will consider, on a case-by-case basis, applications for licenses to export unprocessed western red cedar harvested from Federal or State lands under harvest contracts entered into prior to October 1, 1979.
- (3) BIS will approve license applications for unprocessed western red cedar timber harvested from public lands in Alaska, private lands, and Indian lands. Applications must be submitted in accordance with the procedures set forth in paragraph (a) of this section. See paragraph (c) of this section for the availability of a License Exception.

## (c) License Exception for western red cedar (WRC)

(1) Subject to the requirements described in paragraph (c) of this section, License Exception WRC may be used to export without a license

unprocessed western red cedar timber harvested from Federal, State and other public lands in Alaska, all private lands, and, lands held in trust for recognized Indian tribes by Federal or State agencies.

- (2) Exporters who use License Exception WRC must obtain and retain on file the following documents:
- (i) A statement by the exporter (or other appropriate documentation) indicating that the unprocessed western red cedar timber exported under this License Exception was not harvested from State or Federal lands outside the State of Alaska, and did not become available for export through substitution of commodities so harvested or produced. If the exporter did not harvest or produce the timber, the records or statement must identify the harvester or producer and must be accompanied by an identical statement from the harvester or producer. If any intermediate party or parties held title to the timber between harvesting and purchase, the exporter must also obtain such a statement, or equivalent documentation, from the intermediate party or parties and retain it on file.
- (ii) A certificate of inspection issued by a third party log scaling and grading organization, approved by the United States Forest Service, that:
- (A) Specifies the quantity in cubic meters or board feet, scribner rule, of unprocessed western red cedar timber to be exported; and
- (B) Lists each type of brand, tag, and/or paint marking that appears on any log or unprocessed lumber in the export shipment or, alternatively, on the logs from which the unprocessed timber was produced.
- (3) The requirements and restrictions described in §§740.1 and 740.2 of the EAR that apply to all License Exceptions also apply to the use of License Exception WRC.

(4) A person exporting any item pursuant to this license exception must enter on any required Electronic Export Information (EEI) filing to the Automated Export System (AES) the correct license code that corresponds to "SS-WRC."

#### (d) License Applications

- (1) Applicants requesting to export unprocessed western red cedar must apply for a license in accordance with § 748.1, 748.4 and 748.6 of the EAR, submit any other documents as may be required by BIS, and submit a statement from an authorized representative of the exporter, reading as follows:
  - I, (Name) (Title)\_\_\_\_\_\_of (Exporter)
    \_\_\_\_\_HEREBY CERTIFY that to
    the best of my knowledge and belief the
    (Quantity) (cubic meters or board feed
    scribner) of unprocessed western red
    cedar timber that (Exporter) proposes to
    export was not harvested from State or
    Federal lands under contracts entered
    into after October 1, 1979,

(S	ignature)	
(Da	nte)	

- (2) In Blocks [16] and [18] of the application, "Various" may be entered when there is more than one purchaser or ultimate consignee.
- (3) For each application submitted, and for each export shipment made under a license, the exporter must assemble and retain for the period described in part 762 of the EAR, and produce or make available for inspection, the following:
- (i) A signed statement(s) by the harvester or producer, and each subsequent party having held title to the commodities, that the commodities in question were harvested under a contract to harvest unprocessed western red cedar from State

or Federal lands, entered into before October 1, 1979; and

- (ii) The Automated Export System record.
- (4) A shipping tolerance of 5 percent in cubic feet or board feet scribner is allowed on the un-shipped balance of a commodity listed on a license. This tolerance applies only to the final quantity remaining un-shipped on a license against which more than one shipment is made and not to the original quantity authorized by such license. See §750.11 of the EAR for an explanation of shipping tolerances.

#### (e) Definitions

When used in this section, the following terms have the meaning indicated:

- (1) Unprocessed western red cedar means western red cedar (thuja plicata) timber, logs, cants, flitches, and processed lumber containing wane on one or more sides, as defined in ECCN 1C988, that has not been processed into:
- (i) Lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better grades, with a maximum cross section of 2,000 square centimeters (310 square inches) for any individual piece of processed western red cedar (WRC) being exported, regardless of grade;
  - (ii) Chips, pulp, and pulp products;
  - (iii) Veneer and plywood;
- (iv) Poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; and
  - (v) Shakes and shingles.
- (2) Federal and State lands means Federal and State lands, excluding lands in the State of Alaska

and lands held in trust by any Federal or State official or agency for a recognized Indian tribe or for any member of such tribe.

- (3) Contract harvester means any person who, on October 1, 1979, had an outstanding contractual commitment to harvest western red cedar timber from State and Federal lands and who can show by previous business practice or other means that the contractual commitment was made with the intent of exporting or selling for export in unprocessed form all or part of the commodities to be harvested.
- (4) *Producer* means any person engaged in a process that transforms an unprocessed western red cedar commodity (e.g., western red cedar timber) into another unprocessed western red cedar commodity (e.g., cants) primarily through a saw mill.

#### § 754.5 HORSES FOR EXPORT BY SEA

#### (a) License requirement

As indicated by the letters "SS" in the "Reason for Control" paragraph of the "License Requirements" section of ECCN 0A980 on the CCL (Supplement No. 1 to part 774 of the EAR) a license is required for the export of horses exported by sea to all destinations, including Canada.

#### (b) License policy

- (1) License applications for the export of horses by sea for the purposes of slaughter will be denied.
- (2) Other license applications will be approved if BIS, in consultation with the Department of Agriculture, determines that the horses are not intended for slaughter. You must provide a statement in the additional information section of the application certifying that no horse under

consignment is being exported for the purpose of slaughter.

(3) Each application for export may cover only one consignment of horses.

### § 754.6 REGISTRATION OF U.S. AGRICULTURAL COMMODITIES FOR EXEMPTION FROM SHORT SUPPLY LIMITATIONS ON EXPORT

#### (a) Scope

Under the provisions of section 7(g) of the Export Administration Act of 1979 (EAA), agricultural commodities of U.S. origin purchased by or for use in a foreign country and stored in the United States for export at a later date may be registered with BIS for exemption from any quantitative limitations on export that may subsequently be imposed under section 7 of the EAA for reasons of short supply.

#### (b) Applications for registration

Applications to register agricultural commodities must be submitted by a person or firm subject to the jurisdiction of the United States who is acting as a duly authorized agent for the foreign purchaser.

#### (c) Address

Submit applications pursuant to the provisions of section 7(g) of the EAA, via courier, to:

Bureau of Industry and Security U.S. Department of Commerce 14th and Pennsylvania Ave., NW. Room 2099B Washington, DC 20230

### § 754.7 PETITIONS FOR THE IMPOSITION OF MONITORING OR CONTROLS ON RECYCLABLE METALLIC MATERIALS; PUBLIC HEARINGS

#### (a) Scope

Section 7(c) of the Export Administration Act of 1979 (EAA) provides for the filing and review of petitions seeking the imposition of monitoring or controls on recyclable metallic materials.

#### (b) Eligibility for filing petitions

Any entity, including a trade association, firm or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may submit a written petition to BIS requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such materials.

#### (c) Public hearings

The petitioner may also request a public hearing. Public hearings may also be requested by an entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes, produces or exports the metallic materials which are the subject of a petition.

#### (d) Address

Submit petitions pursuant to section 7(c) of the EAA, via courier, to:

Bureau of Industry and Security U.S. Department of Commerce 14th and Pennsylvania Ave., NW. Room 2099B Washington, D.C. 20230

## SUPPLEMENT NO. 1 TO PART 754 - CRUDE PETROLEUM AND PETROLEUM PRODUCTS

This Supplement provides relevant Schedule B numbers and a commodity description of the items controlled by ECCNs 1C980, 1C981, 1C982, 1C983, and 1C984. The 10-digit Harmonized System-based Schedule B commodity numbers and descriptions below are drawn from *Chapter 27 of the Schedule B 2014* found at and the *AES 2014 Export Concordance* (December 30, 2013) <a href="http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt">http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt</a>. If there are any discrepancies between the information in this supplement and the information in the most current Schedule B, use the most current Schedule B commodity number on your Electronic Export Information filing on the Automated Export System.

Schedule B No	Commodity description	
CRUDE OIL		
2709001000	Petroleum oils and oils obtained from bituminous minerals, crude	
2709002010	Petroleum oils and oils obtained from bituminous minerals, testing 25 degrees API or more, condensate derived wholly from natural gas, crude	
2709002090	Petroleum oils and oils obtained from bituminous minerals, testing 25 degrees API or more, crude, NESOI	
2714100000	Bituminous or oil shale and tar sands	
PETROLEUM PRODUCTS		
2707999010	Carbon black feedstock	
2710121510	Leaded gasoline	
2710121514	Unleaded gasoline, reformulated	
2710121519	Unleaded gasoline, NESOI	
2710121520	Jet fuel, naphtha-type	
2710121550	Motor fuels, NESOI	
2710121805	Motor fuel blending stock, Reformulated Blendstock for Oxygenate Blending (RBOB)	
2710121890	Motor fuel blending stock, except Reformulated Blendstock for Oxygenate Blending (RBOB)	
2710122500	Naphthas, except motor fuel or motor fuel blending stock	

Schedule B No	Commodity description
2710124500	Light oil and preparation, mixtures of hydrocarbons containing by weight not over 50 percent of any single hydrocarbon compound, NESOI
2710129000	Light oils and preparations obtained from bituminous minerals containing by weight 70 percent or more of petroleum oils, NESOI
2710190605	No. 4-type fuel oils, API lt 25 degrees, having a saybolt universal viscosity at 37.8 degrees C of 45-125 seconds, with not over 500 ppm of sulfur
2710190615	No. 4-type fuel oils under 25 degrees API having a saybolt universal viscosity at 37.8 degrees C of 45-125 seconds, having over 500 ppm sulfur
2710190620	Heavy fuel oils under 25 degrees API having saybolt universal viscosity at 37.8 degrees C of more than 125 seconds
2710190650	Distillate and residual fuel oils (including blended fuel oils), testing under 25 degrees API, NESOI
2710191106	Light fuel oils testing 25 degrees API or more, containing not more than 15 ppm of sulfur
2710191109	Light fuel oils testing 25 degrees API or more, containing more than 15 ppm but not more than 500 ppm of sulfur
2710191112	Light fuel oils 25 degrees API or more having a saybolt universal viscosity at 37.8 degrees C of less than 45 seconds, containing over 500 ppm sulfur
2710191115	No. 4-type fuel oils containing not more than 500 ppm of sulfur
2710191125	No. 4-type fuel oils containing more than 500 ppm of sulfur
2710191150	Heavy fuel oils 25 degrees API or more with a saybolt universal viscosity at 37.8 degrees C of more than 125 seconds
2710191600	Kerosene-type jet fuel, NESOI
2710192400	Kerosene motor fuel
2710192500	Kerosene motor fuel blending stock
2710192600	Kerosene, except motor fuel or motor fuel blending stock, NESOI
2710193010	Aviation engine lubricating oils (except jet engine lubricating oils)

Schedule B No	Commodity description
2710193020	Automotive, diesel or marine engine (except turbine) lubricating oils
2710193030	Turbine lubricating oil, including marine
2710193040	Automotive gear oils
2710193050	Steam cylinder oils
2710193070	Quenching or cutting oils
2710193080	Lubricating oils with or without additives, NESOI
2710193750	Lubricating greases with or w/out additives
2710194530	White mineral oils, medicinal grade
2710194540	White mineral oils, except medicinal grade
2710194545	Insulating or transformer oils, NESOI
2710194590	Mixtures of hydrocarbons NESOI, containing by weight not over 50 percent of any single hydrocarbon compound
2710199000	Petroleum oils or oils obtained from bituminous minerals, other than crude, containing by weight 70% or more of petroleum oils, NESOI
2710200000	Petroleum oils or oils obtained from bituminous minerals, other than crude, containing by weight 70% or more of petroleum oils, containing biodiesel
2710910000	Waste oils containing Polychlorinated Biphenyls (PCBs), Polychlorinated Terphenyls (PCTs), or Polybrominated Biphenyls (PBBs)
2710990000	Waste oils, not elsewhere specified or included
2711110000	Natural gas, liquefied
2711120000	Propane, liquefied
2711130000	Butanes, liquefied
2711140000	Ethylene, propylene, butylene and butadiene liquefied
2711190000	Petroleum gases and other gaseous hydrocarbons, liquefied, NESOI
2712200000	Paraffin wax containing less than 0.75 percent oil

Schedule B No	Commodity description
2712900000	Microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products, NESOI
2713110000	Petroleum coke, not calcined
2713120000	Petroleum coke, calcined
2713200000	Petroleum bitumen
2713900000	Residues of petroleum oils or of oils obtained from bituminous materials, NESOI
2714900000	Bitumen and asphalt, natural; asphaltites and asphaltic rocks
2715000000	Bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch
2804100000	Hydrogen
2804290010	Helium
2811210000	Carbon dioxide
2811299000	Carbon monoxide
2814100000	Anhydrous ammonia
2814200000	Ammonia in aqueous solution
3819000000	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70 percent by weight of petroleum oils or oils obtained from bituminous minerals

### SUPPLEMENT NO. 2 TO PART 754 -UNPROCESSED WESTERN RED CEDAR

This table is a non-exhaustive list of 10-digit Harmonized System-based Schedule B commodity numbers that may apply to unprocessed western red cedar products subject to license requirements of §754.4 of this part. The 10-digit Harmonized System-based Schedule B commodity numbers and descriptions below are drawn from *Chapter 44 of the Schedule B 2014* found at <a href="http://www.census.gov/foreign-trade/schedules/b/2014/c44.html">http://www.census.gov/foreign-trade/schedules/b/2014/c44.html</a> and the *AES 2014 Export Concordance* (December 30, 2013) <a href="http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt">http://www.census.gov/foreign-trade/aes/documentlibrary/expaes.txt</a>. If there are any discrepancies between the information in this supplement and the information in the most current Schedule B, use the most current Schedule B commodity number on your Electronic Export Information filing in the Automated Export System.

Schedule B commodity number	Description	
Wood in the rough		
4403100030	Poles, piles and posts; 'treated'	
4403100060	Wood in the rough; 'treated'	
4403200010	Not 'treated;' coniferous; poles, piles and posts	
4403200055	Not 'treated;' coniferous; logs and timber; Western Red Cedar (Thuja Plicata)	
'Lumber'		
4407100101	Coniferous; finger-jointed	
4407100102	Coniferous; except finger-jointed; 'treated'	
4407100168	Coniferous; except finger-jointed; not 'treated;' Western Red Cedar (Thuja Plicata); 'rough'	
4407100169	Coniferous; except finger-jointed; not 'treated;' Western Red Cedar (Thuja Plicata); not 'rough'	

**Note 1: 4403** heading in the Schedule B 2014 pertains to "wood in the rough, whether or not stripped of bark or sapwood, or roughly squared (not including lumber of heading 4407)."

**Note 2**: The 6-digit Harmonized System subheading 4403.10 and the 10-digit Harmonized System code 4407.10.0102 in Schedule B 2014 state that **'treated'** means "treated with paint, stain, creosote or other preservatives."

**Note 3**: The **4407** heading in the Schedule B 2014 refers to **'lumber'** as "wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm (.236 inch)."

**Note 4**: Section IX – Chapter 44 of Schedule B 2014, Statistical Note 3 states, "for the purpose of heading 4407, the term "**rough**" includes wood that has been edged, resawn, crosscut or trimmed to smaller sizes but it does not include wood that has been dressed or surfaced by planing on one or more edges or faces or has been edge-glued or end-glued."

### SUPPLEMENT NO. 3 TO PART 754 - STATUTORY PROVISIONS DEALING WITH EXPORTS OF CRUDE OIL

[The statutory material published in this Supplement is for the information of the reader only. See the U.S. Code for the official text of this material.]

#### PUBLIC LAW 104-58

### SEC. 201 EXPORTS OF ALASKAN NORTH SLOPE OIL

Section 28 of the Mineral Leasing Act (30 U.S.C. 185(s)) is amended by amending subsection(s) to read as follows:

#### "EXPORTS OF ALASKAN NORTH SLOPE OIL

- (1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of laws (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider--
- (A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States:
- (B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

- (2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).
- (3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271-76) to prohibit exports.
- (4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination,

including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

- (5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortage or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.
- **(6)** Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

# MINERAL LANDS LEASING ACT 30 U.S.C. 185(u)

#### Limitations on export

domestically produced crude Anv transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following) and, in addition, before any crude oil subject this section may be exported

under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1979 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the Unites States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1979: Provided, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential finding shall cease.

# NAVAL PETROLEUM RESERVES PRODUCTION ACT 10 § 7430(e)

Any petroleum produced from the naval petroleum reserves, except such petroleum which is either exchanged in similar quantities for convenience or increased efficiency transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Administration Act of 1979, the President must make and publish an express finding that such exports will not diminish the total quality or

quantity of petroleum available to the United States and that such exports are in the national interest and are in accord with the Export Administration Act of 1979.

### OUTER CONTINENTAL SHELF LANDS ACT 43 U.S.C. 1354

### (a) Application of Export Administration provisions

Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969. Note that the Export Administration Act of 1969, referred to in paragraphs (a) and (b) of the Supplement, terminated on September 30, 1979, pursuant to the terms of that Act.

# (b) Condition precedent to exportation; express finding by President of no increase in reliance on imported oil or gas

Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

# (c) Report of findings by President to Congress; joint resolution of disagreement with findings of President

The President shall submit reports to Congress containing findings made under this section, and after the date of receipt of such reports Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether export under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

# (d) Exchange or temporary exportation of oil and gas for convenience or efficiency of transportation

The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increase efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.